UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,912	07/31/2003	Lech Pofelski	1509-430	7571

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EXAMINER
CHANNAVAJJALA, SRIRAMA T

ART UNIT	PAPER NUMBER
2166	

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 July 2003*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *31 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All   b)☐ Some * c)☐ None of:

      1.☒ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-11 are presented for examination.

2.   Examiner acknowledges applicant's ***"preliminarily amendment"*** filed on

7/31/2003, claims 4-6,9,have been amended.

Drawings

3.   The Drawings filed on 7/31/2003 are <u>acceptable</u> for examination purpose.

However, the drawings are objected to as failing to comply with 37

CFR 1.84(p)(5) because fig 1-2, do not include the "LABELS" for the reference sign(s)

mentioned in the drawings, for example, fig 1, 10-23 labels are required, similarly, fig 2,

elements 110, 112-122,124-127 labels are required. A proposed drawing correction or

corrected drawings are required in reply to the Office action to avoid abandonment of

the application. The objection to the drawings will not be held in abeyance.

Priority

4.   Acknowledgment is made of applicant's claim for foreign priority based on

Application Sl.No. *02354119.6* filed on ***02 August 2002*** under 35 U.S.C. 119(a)-(d), the

certified copy has been filed in the Application No. 10/630,912, filed on 7/31/2003.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5.   *Claim 1-11 are rejected under 35 U.S.C. 101 because invention is directed to non-statutory subject matter.*

6.   Regarding independent claim 1: The language of this claim merely describes the steps " A backup system for a database, the backup system being operable to: store a preceding checkpoint containing the contents of the database, receive at least one transaction log, the at least one transaction log identifying changes to the contents of the database; generate a new checkpoint by merging the preceding checkpoint and the at least one transaction log, and store the new checkpoint" This is believed to be "software program" per se is a "non statutory" subject matter because, this raises a question as to whether the claim is directed merely to an "abstract" idea that is not in an environment or machine which would result in a "practical application" producing a *concrete, useful and tangible* result to form the basis of statutory subject matter under 35 USC 101.

7.   Claims 2-9 are dependent from claim 1, and do not add any limitations that would render the claims statutory under 35 USC 101. Therefore, these claims are likewise rejected.

8.   Regarding independent claim 10, The language of this claim merely describes the steps "a method of generating a checkpoint for a database, the method comprising the steps of : receiving at least one transaction log, the at lest one transaction log identifying changes to the database; merging the transaction log with a preceding checkpoint to generate a new checkpoint". This is believed to be "software program" per se is a "non statutory" subject matter because, this raises a question as to whether the claim is directed merely to an "abstract" idea that is not in an environment or machine which would result in a "practical application" producing a _concrete, useful and tangible_ result to form the basis of statutory subject matter under 35 USC 101.

9.   claim 11 dependent from claim 10, do not add any limitations that would render the claims statutory under 35 USC 101. Therefore, this claim is likewise rejected.

For further guidelines see: "http://www.uspto.gov/web/offices/pac/dapp/ogsheet.html".

Claim Rejections - 35 USC § 102

10.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11.   Claims 1-11 rejected under 35 U.S.C. 102(e) as being anticipated by Cha et

al. [hereafter Cha], US Publication No. 2003/0061537 filed on July 15, 2002,

published on March 27, 2003.

12.   As to claim 1, Cha teaches a system which including 'a backup system [fig 1,

element 111,112 for a database [fig 1, element 100], the backup system being operable

to store a preceding checkpoint [fig 1, element 107] containing the contents of the

database' [page 2, col 1, 0034, col 2, 0036], Cha is directed to logging and recovery

scheme in databases, more specifically, database concurrency control among

transactions particularly checkpoint is used for the process of making backup operations

as detailed in page 2, col 2, 0036, backup system corresponds to fig 1,element 11,112;

database corresponds to fig 1, element 100, checkpoint being managed by the

checkpoint manager, fig 1, element 107;

'receive at least one transaction log [fig 1, element108, page 2, col 2, 0035], the

at least one transaction log identifying changes to the contents of the database' [page

3, col 2, 0052, page 4, col 1, 0068], Cha specifically teaches transaction log record

identifier that locates the log records of transactions [page 3, col 2, 0052], also Cha

teaches update log records using "time stamp" log records as detailed in page 4, col 1,

0068;

'generate a new checkpoint by merging the preceding checkpoint and the at least

one transaction log' [page 6, col 1, 0128-0131], and store the new checkpoint' [fig 1,

page 6, col 1, 0130-0131].

13.   As to claim 2, Cha disclosed 'sort the or each transaction log prior to merging the

or each transaction log with the preceding checkpoint' [page 5, col 1, 0100].

14.   As to claim 3, Cha disclosed 'receive a plurality of transaction logs, and wherein

the transaction logs are sorted to combine the transaction logs prior to merging the

transaction logs with the preceding checkpoint' [page 5, 0100, col 2, 0101].

15.   As to claim 4, Cha disclosed 'checkpoint is stored on the data storage medium

and the or each transaction log is sorted in the memory' [page 5, col 2, 0102].

16.   As to claim 5, Cha disclosed 'store at least one transaction log prior to generating

a new checkpoint' [page 6, col 1, 0128].

17.   As to claim 6, Cha disclosed 'database system comprising a memory

[fig 1, element 102], and being operable to store a database in the memory [fig 1-2,

page 2, col 2, 0040], the database system being operable to update the database in

response to a transaction, record the transaction in a log [page 4, col 1, 0068], and

transmit the transaction log to the backup system [fig 1, page 2, col 1, 0034].

18.   As to claim 7, Cha disclosed 'backup system is operable to transmit the

checkpoint to the database system to rebuild the database' [page 2, col 2, 0036,

line 1-3].

19.   As to claim 8, Cha disclosed 'backup system is operable to store at least one

transaction log after generation of the checkpoint [page 2, col 2, 0036, line 1-7], wherein

the backup system is operable to transmit the at least one transaction log to the

database system with the checkpoint' [page 2, col 2, 0036].

20.   As to claim 9, Cha disclosed 'the management system comprising a data storage

medium wherein a copy of the database is stored, the backup system being operable to

transmit the checkpoint to the management system [page 2, 0036-0037].

21.   As to claim 10, Cha teaches a system which including receive at least one

transaction log [fig 1, element108, page 2, col 2, 0035], the at least one transaction log

identifying changes to the database' [page 3, col 2, 0052, page 4, col 1, 0068], Cha

specifically teaches transaction log record identifier that locates the log records of transactions [page 3, col 2, 0052], also Cha teaches update log records using "time stamp" log records as detailed in page 4, col 1, 0068;

'merging the transaction log with preceding checkpoint to generate a new checkpoint' [page 6, col 1, 0128-0131], new checkpoint' [fig 1, page 6, col 1, 0130-0131].

22.   As to claim 11, Cha disclosed 'sorting he or each transaction log prior to the step of merging the or each transaction log with the preceding checkpoint' [page 5, col 1, 0100].

Conclusion

The prior art made of record

a.   US Pub.No.   20030061537

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Srirama Channavajjala whose telephone number is 571-272-4108. The examiner can normally be reached on Monday-Friday from 8:00 AM to 5:30 PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alam, Hosain, T, can be reached on (571) 272-3978. The fax phone numbers for the organization where the application or proceeding is assigned is 571-273-8300 Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free)

sc
Patent Examiner.
February 28, 2006.

SRIRAMA CHANNAVAJJALA
PRIMARY EXAMINER